

II.

REQUEST FOR EXTENSION OF DEADLINES

3. Pursuant to Federal Rule of Civil Procedure 16(b)(4), the Parties request an extension of these deadlines for good cause. On February 1, 2021, this Court adopted the United States Magistrate Judge's Report and Recommendation [Dkt. # 111] that the Court enter a default judgement on liability against Defendants DeSimone and Oldfield on a number of Plaintiff's claims and sanctioned Defendants DeSimone and Oldfield for attorneys' fees and expenses incurred by BalanceCXI.

4. The Parties are scheduled to mediate this case with Patrick Keel on **December 9, 2021**, and seek to explore a resolution of this case without burdening the Court with additional filings or incurring what may be additional expense in preparing this case for trial.

5. This Motion is brought in good faith and is agreed to by all of the Parties and the Parties seek this modification before the deadlines pass. The extensions of these deadlines are not sought solely for delay but so that justice may be done.

III.

CONCLUSION & PRAYER

For all of these reasons, the Parties respectfully request that the Court enter the proposed Amended Scheduling Order attached as Exhibit A to the Motion, and for other relief the Court deems appropriate.

Dated: November 4, 2021.

Respectfully submitted,

/s/ Steve Skarnulis (w/p)

Steve Skarnulis

State Bar No. 24041924

skarnulis@cstrial.com

Clinton A. Rosenthal

State Bar No. 24037393

croenthal@cstrial.com

Benjamin D. Evans

State Bar No. 24081285

bevans@cstrial.com

CAIN & SKARNULIS PLLC

400 W. 15th Street, Suite 900

Austin, Texas 78701

512-477-5000

512-477-5011—Facsimile

ATTORNEYS FOR DEFENDANTS

/s/ Amy L. Ruhland (w/p)

Amy L. Ruhland (Rudd)

Texas Bar No. 24041924

Amy.Ruhland@us.dlapiper.com

DLA PIPER LLP (US)

401 Congress Avenue, Suite 2500

Austin, TX 78701-3799

512-457-7220

512-721-2220—Facsimile

**ATTORNEYS FOR DEFENDANTS
DESIMONE AND ICAR**

/s/ Adam H. Sencenbaugh

Adam H. Sencenbaugh

State Bar No. 24060584

adam.sencenbaugh@haynesboone.com

Henson Adams

State Bar No. 24101418

henson.adams@haynesboone.com

HAYNES AND BOONE, L.L.P.

600 Congress Avenue, Suite 1300

Austin, Texas 78701

512-867-8400

512-867-8470—Facsimile

**ATTORNEYS FOR PLAINTIFF
BALANCECXI, INC. dba ZACOUSTIC**

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of November, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification to all counsel of record.

/s/ Adam H. Sencenbaugh
Adam H. Sencenbaugh

4868-8544-5378